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MATT BLUNT

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are cited in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—Division of Medical Services Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending section (15).

PURPOSE: *The emergency amendment to section (15) provides for using either a third or fourth base year cost report that is the most representative of costs for first tier hospitals.*

EMERGENCY STATEMENT: *The Division of Medical Services finds that this emergency amendment is necessary, to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment makes adjustments to the Medicaid add-on payments for state fiscal year 2001 to ensure access to hospital services for indigent and Medicaid recipients at hospitals which have relied on Medicaid payments in meeting those needs. The Division of Medical Services also finds an immediate danger to public health and welfare which requires emergency action. If this emergency amendment is not enacted it will cause significant cash flow shortages and financial strain on all hospitals who serve the more than 600,000 Medicaid recipients. This will, in turn, result in an adverse impact on the health and welfare of*

those in need of medical care and treatment. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. Therefore, the division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment filed April 9, 2001, effective April 19, 2001, expires October 15, 2001.

(15) Direct Medicaid Payments.

(B) Direct Medicaid payment will be computed as follows:

1. The Medicaid share of the FRA assessment will be calculated by dividing the hospital's Medicaid patient days by total hospital's patient days to arrive at the Medicaid utilization percentage. This percentage is then multiplied by the FRA assessment for the current SFY to arrive at the increased allowable Medicaid costs;

2. The unreimbursed Medicaid costs are determined by subtracting the hospital's per-diem rate from its trended per-diem costs. The difference is multiplied by the estimated Medicaid patient days for the current SFY.

A. The trended cost per day is calculated by trending the base year operating costs per day by the trend indices listed in paragraph (3)(B)1., using the rate calculation in subsection (3)(A).

B. For hospitals that meet the requirements in paragraphs (6)(A)1., (6)(A)2. and (6)(A)4. of this rule (safety net hospitals), the base year cost report may be from the third prior year, the fourth prior year, or the fifth prior year, *based on the determination of the Division of Medical Services exercising its sole discretion as to which report is most representative of costs incurred*. For hospitals that meet the requirements in paragraphs (6)(A)1. and (6)(A)3. of this rule (first tier Disproportionate Share Hospitals), the base year operating costs *[shall be based on]* **may be the third or fourth prior year cost report. The Division of Medical Services shall exercise its sole discretion as to which report is most representative of costs.** For all other hospitals, the base year operating costs are based on the fourth prior year cost report. For any hospital that has both a twelve month cost report and a partial year cost report, its base period cost report for that year will be the twelve month cost report.

C. The trended cost per day does not include the costs associated with the FRA assessment, the application of minimum utilization, the utilization adjustment and the poison control costs computed in paragraphs (15)(B)1., 3., 4., and 5.;

3. The minimum utilization costs for capital and medical education is calculated by determining the difference in the hospital's cost per day when applying the minimum utilization as identified in paragraph (5)(C)4., and without applying the minimum utilization. The difference in the cost per day is multiplied by the estimated Medicaid patient days for the SFY;

4. The utilization adjustment cost is determined by estimating the number of Medicaid inpatient days the hospital will not provide as a result of the MC+ Health Plans limiting inpatient hospital services. These days are multiplied by the hospital's cost per day to determine the total cost associated with these days. This cost is divided by the remaining total patient days from its base period cost report to arrive at the increased cost per day. This increased cost per day is multiplied by the estimated Medicaid days for the current SFY to arrive at the Medicaid utilization adjustment; and

5. The poison control cost shall reimburse the hospital for the prorated Medicaid managed care cost. It will be calculated by multiplying the estimated Medicaid share of the poison control costs by the percentage of MC+ recipients to total Medicaid recipients.

AUTHORITY: *sections 208.152, 208.153, 208.201 and 208.471, RSMo [1994] 2000. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969.*

For intervening history, please consult the Code of State Regulations. Emergency amendment filed April 9, 2001, effective April 19, 2001, expires Oct. 15, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program**

EMERGENCY RULE

13 CSR 70-15.150 Enhancement Pools

PURPOSE: This rule creates enhancement pools to increase reimbursement to government-owned hospitals and all hospitals, in an amount not to exceed the Medicare upper limit payment for the Medicaid program.

EMERGENCY STATEMENT: This emergency rule creates enhancement pools to increase reimbursement to government-owned hospitals and all hospitals, in an amount not to exceed the Medicare upper limit payment for the Medicaid program. This emergency rule is necessary in order to protect the health and safety of senior Missourians who receive care in hospitals by promoting quality of care through increased Medicaid reimbursement. The emergency amendment is also necessary to ensure compliance with the Medicaid State Plan as required by federal law. Absent this emergency rule, the Division will be precluded from maximizing federal participation in funding of the medical assistance program which will cause financial strain on all hospitals which serve Medicaid recipients. As a result, the Missouri Division of Medical Services finds an immediate danger to the public health and welfare and a compelling governmental interest which require emergency action. A proposed amendment covering this same material is published in this Missouri Register to allow for public comment to assure fairness to all interested persons and parties. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in Missouri and United States Constitutions. The Division of Medical Services believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed April 9, 2001, effective April 19, 2001, and expires October 15, 2001.

(1) Medicaid Enhancement Pools. Each participating government owned or operated hospital may be paid a one-time per year payment from an enhancement pool that shall be calculated at a percentage to be specified by the Department of the aggregate difference between the Medicare Upper Limit and the per-diem reimbursement for all Medicaid hospitals for services covered by the Missouri Medicaid program.

(A) The aggregate difference between the Medicare Upper Limit and the per-diem reimbursement for all Medicaid hospitals will be calculated as follows. The per-diem Medicaid rates used in the calculation will be those being paid at the time of the calculation. The Medicare upper limit calculation will be based on the uniform cost report for the third previous rate year, trended forward (for example, calculation for state fiscal year 2001 would be based on hospital cost reports ending during calendar year 1998, trended forward). The difference for each facility will then be multiplied by the Medicaid days at that particular hospital. The product of all calculations shall then be added together with the resulting sum comprising the aggregate difference between the Medicare upper limit and the per-diem Medicaid reimbursement for all facilities.

(B) The enhancement payment shall be distributed to participating governmental hospitals based on their pro-rata share of Medicaid patient days.

(C) A participating government owned or operated hospital is one that has entered into an intergovernmental funds transfer agreement with the Department.

(2) All Medicaid enrolled hospitals may participate in distributions from a second pool that shall be calculated at a percentage to be specified by the Department of the aggregate difference between the Medicare Upper Limit and per-diem reimbursement for all Medicaid enrolled hospitals for services covered by the Missouri Medicaid program, as defined above. The second pool shall be distributed annually as a one-time payment, made in addition to per-diem payments, to all Medicaid enrolled hospitals based on their pro-rata share of Medicaid days.

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed April 9, 2001, effective April 19, 2001, expires Oct. 15, 2001. A proposed rule covering this same material is published in this issue of the Missouri Register.